

# **ARTICLE IX**

## **Nonconforming Structures, Uses and Lots**

### **9.1 NONCONFORMING STRUCTURES AND USES**

#### **9.11 Nonconforming Structures**

##### **9.11-1 Maintenance Permitted**

A nonconforming structure lawfully existing upon the effective date of this Ordinance may be maintained, except as otherwise provided in this Section.

##### **9.11-2 Repairs**

A nonconforming structure may be repaired or altered provided no structural change shall be made.

##### **9.11-3 Additions, Enlargements or Moving**

- a. A structure nonconforming as to use, height, yard, requirements or lot areas, shall not be added to or enlarged in any manner unless such structure, including such addition or enlargement, is made to conform to the use, height, yard, and area requirements of the district in which it is located.
- b. No nonconforming structure shall be moved in whole or in part to any other location on the lot on which it is located unless every portion of such structure is made to conform to all the requirements of the district in which it is located.

#### **9.12 Nonconforming Uses**

##### **9.12-1 Continuation and Change of Use**

Except as otherwise provided in this Ordinance:

- a. A nonconforming use lawfully existing upon the effective date of this Ordinance may be continued.
- b. A nonconforming use may be changed only to a use of the same or more restricted classification.

#### 9.12-2 Expansion Prohibited

- a. A nonconforming use in a structure designed for a conforming use shall not be expanded or extended into any other portion of such conforming structure nor change except to a conforming use.
- b. A nonconforming use on a part of a lot shall not be expanded into any other portion of such lot.

### 9.2 NONCONFORMING VARIANCE PERMITTED BY ZONING BOARD OF APPEALS

The Zoning Board of Appeals may authorize upon appeals in specific cases such variance from the terms of this Article as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Article will result in unnecessary hardship, and so that the spirit of this Article shall be observed and substantial justice done; provided, however, that no action shall be taken or decision made except after public hearing. (See Section 10.5).

### 9.3 AMORTIZATION OF NONCONFORMING STRUCTURES OR USES

- 9.31 Whenever a nonconforming structure or use has been discontinued for a period of twelve (12) months, such structure or use shall not thereafter be reestablished and shall thereafter conform to the provisions of this Ordinance.
- 9.32 No structure damaged by fire or other causes to the extent that its restorations will cost more than double its assessed valuation shall be repaired or rebuilt except to conform to the provisions of this Ordinance.
- 9.33 Any nonconforming open use of land lawfully existing upon the effective date of this Ordinance and not previously designated as a nonconforming open use of land by any prior ordinances shall be discontinued on or before five (5) years after the effective date of this Ordinance.
- 9.34 Any nonconforming billboard or advertising structure not attached to a building, lawfully existing upon the effective date of this Ordinance, may continue as long as it is structurally sound and does not present a hazard. Replacement of these structures will be by conforming structures. Whenever a nonconforming sign structure or an advertising sign structure's use is discontinued for a period of twelve (12) months, its use thereafter will not be reestablished and shall be removed.

## 9.4 SUBSTANDARD LOT

9.41 Any lot in a single ownership, which ownership was of record at the time of the adoption of this Ordinance, that does not meet the requirements of this Ordinance for lot area, yards, or other area of open space may be utilized for single residence purposes, provided the requirements for such lot area, yard, width, depth, or open space is within sixty-five (65) percent of that required by the terms of this Ordinance. The purpose of this provision is to permit utilization of recorded lots which lack adequate width or depth as long as reasonable living standards can be provided, with the following additional requirements:

9.41-1 The owner shall furnish, with the application for a zoning permit, a survey by a duly licensed land surveyor, showing the lots upon which the applicant proposes to erect any permitted residential use in the district and also showing a portion of the lots on either side of the said lot including the width of the adjoining existing side yards to the nearest part of the buildings or structures thereon.

9.41-2 An affidavit by the owner of record of the lot described in the application for a zoning permit stating that this was a lot of record at the time of adoption of this Zoning Ordinance.

9.42 The Zoning Board of Appeals shall order the Zoning Enforcing Officer to issue a permit for erecting a building for any permitted residential use in the district on the subject lot upon compliance with all of the foregoing provisions and all other applicable provisions of this Ordinance, if all the following requirements are met:

9.42-1 The subject lot:

- a. Is not adjoining and contiguous to a vacant lot on either side held under common ownership at any time after the year 1965; or
- b. Is not contiguous to an improved lot of record which has one (1) foot or more of an adjoining side yard in excess of the minimum required side yard for the district in which the building or structure is located, which additional side yard land could physically be added to the applicant's lot to increase the width or area; or that the owners of the adjoining lots refuse to sell any portion of land that could be added to the applicant's lot to increase the width thereof without reducing the required side yards of the adjoining lots and which additional land the applicant would be willing to purchase; and

- c. Is not owned and has not been owned directly or indirectly or by a nominee of any person, firm, corporation, or trust, or by an officer, shareholder, director, partner, beneficiary, agent or person related by blood or marriage or by any predecessors in title, who also held or holds any right, title or interest in or to either one (1) or both of the contiguous lots after the year 1965 to the date of application for a zoning permit.

9.42-2 The contiguous lots are not owned and have not been owned directly or indirectly or by a nominee of any person, firm, corporation or trust, or by any officer, shareholder, director, partner, beneficiary, agent or person related by blood or marriage or by any predecessors in title, who also held or holds any right, title or interest, directly or indirectly, in the applicant's lot after the year 1965 to the date of application for a zoning permit.

9.43 In the event that the owner is unable to meet all of the aforesaid additional requirements for a zoning permit, or in the event that the owner either desires to sell to or buy from the owners of a contiguous lot or lots who also desires to either sell or buy, but the parties are unable to agree on a price, then the Zoning Board of Appeals may grant such relief in accordance with the procedures as set forth in this Ordinance as deemed appropriate.